

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

**ADMINISTRATIVE CIVIL LIABILITY
COMPLAINT NO. R3-2006-0061**

IN THE MATTER OF:

**CALIFORNIA POLYTECHNIC STATE UNIVERSITY, SAN LUIS OBISPO
San Luis Obispo County**

California Polytechnic State University, San Luis Obispo (hereafter "Cal Poly" or "Discharger") is alleged to have violated provisions of an Order of the California Regional Water Quality Control Board, Central Coast Region (hereafter "Central Coast Water Board"), for which the Central Coast Water Board may impose civil liability pursuant to California Water Code Section 13385.

Unless the Discharger waives its right to a hearing, a public hearing on this matter will be held before the Central Coast Water Board on September 7 or 8, 2006, at the Monterey City Council Chambers, 598 Pacific Street, Monterey, California. The Discharger and its authorized representative(s) will have an opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Central Coast Water Board.

An agenda will be mailed to the Discharger separately, not less than ten days before the public hearing date. At the public hearing, the Central Coast Water Board will consider whether to affirm, reject, or modify the proposed administrative civil liability, or whether to refer the matter to the State Attorney General for recovery of judicial civil liability.

ALLEGATIONS

1. The Discharger operates a 6,000-acre university campus in San Luis Obispo. The campus includes extensive agriculture-related facilities, including but not limited to, the Dairy Unit, the Swine Unit, and Composting Facility.
2. The **Dairy Unit** is located one mile northwest of the main campus. The Dairy Unit includes barns, milking facilities, milk storage, laboratories and classrooms. The Dairy Unit is permitted for 375 Animal Units of cattle. The Dairy Unit's wastewater treatment facility consists of solids removal and settling in a 13 acre-foot retention pond, located on approximately 1.5 acres at the southeast corner of the facility. Waste then flows via gravity to a 15.7 acre-foot retention pond. Two additional retention ponds of approximately 8.9 acre feet each are available at the abandoned State Dairy facility (adjacent to the Dairy Unit) for emergency wet weather storage.
3. The Discharger also operates a **Swine Unit**, located 0.8 mile north-northwest of the main campus. The Swine Unit is designed to contain up to approximately 600 animals. The Swine Unit's treatment and disposal facility consists of two retention

ponds. Each pond has the capacity to hold approximately 5.2 acre-feet of wastewater. The retention ponds are located on 3.8 acres, approximately 400 feet southwest of the livestock facility.

4. Wastewater accumulated from the Dairy Unit and Swine Unit is disposed of by spray irrigation on adjacent pasturelands to maintain appropriate freeboard in ponds. Wastewater is not disinfected. Sludge and dredge material from the treatment ponds is placed on adjacent fields.
5. The Discharger also operates a **Composting Facility** for the processing and reuse of organic waste material (including solid animal waste). Produced compost is used to augment soils throughout the campus.
6. Stenner Creek flows through the agricultural lands west of the main campus. Brizzolara Creek skirts the western edge of the campus instructional core. Both Stenner and Brizzolara Creeks are tributary to San Luis Obispo Creek. Present and anticipated beneficial uses of Stenner and Brizzolara Creeks include: domestic and municipal supply, agricultural supply, groundwater recharge, non-contact water recreation, water-contact recreation, wildlife habitat, cold freshwater habitat, warm freshwater habitat, fish migration, fish spawning, freshwater replenishment, preservation of Biological Habitats of Special Significance, rare, threatened or endangered species; and commercial and sport fishing.
7. San Luis Obispo Creek is impaired by pathogens and included on the Clean Water Act Section 303(d) list of impaired waterbodies. The Office of Administrative Law approved the San Luis Obispo Creek Pathogen Total Maximum Daily Load (TMDL) on July 25, 2005; this is the official effective date of the TMDL and Implementation Plan. The Implementation Plan requires Cal Poly to complete several actions to improve water quality by July 25, 2006¹.
8. The Discharger is subject to *Waste Discharge Requirements Order No. R3-2003-035* (hereafter Order No. 03-035), which was adopted by the Central Coast Water Board on July 11, 2003. Order No. 03-035 includes the following requirements:

“A. PROHIBITIONS

2. Discharge of any wastes including overflow bypass, seepage and over-spray from transport, treatment or disposal system to any surface water, including but not limited to Stenner Creek, Brizzolara Creek, Chorro Creek and its tributaries and adjacent drainageways, is prohibited.
4. Discharge of solids (pond dredging) or compost products shall fully comply with the WQMP and the solids use/reuse plan described in Provision D.10. Solids placement will be done in such a way to prevent runoff to surface waters and maximize plant uptake.

¹ See September 27, 2005 letter to Kim Busby, Water Quality Management Specialist, Cal Poly

B. DISCHARGE SPECIFICATIONS

1. Waste shall not be disposed of in any manner or location where it can be carried from the disposal site and discharged into waters of the State or United States.”
9. The Discharger developed a Water Quality Management Plan (WQMP) that is included by reference in Order No. 03-035. Provisions of Order No. 03-035 state that the Discharger will implement the WQMP in its entirety and the WQMP will be recognized and enforced in the same manner as the Standard Provisions or Monitoring and Reporting Program. The WQMP states, in part:

CA-2: “...manure may be stacked in the confined lot or other appropriate area as long as the discharge is minimized and any storm runoff is managed. If manure is managed as a solid, any drainage from the storage area or structure is routed to the appropriate retention pond.”

WWP-2: “...retention ponds are sufficiently lowered following each storm to restore the design capacity of the system, as permitted by disposal field conditions.”

WWF-1: “...there is no discharge of wastes, including overflow, bypass, seepage, and over-spray from transport, treatment, or disposal systems, to any surface water, including but not limited to Stenner Creek, Brizzolara Creek, and adjacent drainage ways.”

WWF-2: “...application of manure and wastewater to land disposal areas occurs at rates that are appropriate for the crop, soil, climate, management system, and condition of waste, and to assure that wastewater percolation meets the requirement of the Regional Board.”

WWF-4: “...lands where liquid animal wastes are applied are managed to preclude runoff of wastewater as described in the Nonpoint Source Pollution Prevention Program.”

WWF-6: “...effluent irrigation will not take place during rainfall or when the ground is saturated (after a 3-inch rainfall).”

WWF-7: “released irrigation effluent will be maintained on the appropriate pastures without runoff to adjacent drainage ways or properties and meet the RWQCB discharge requirements.”

SWS-3: “...compost piles will be located on compacted soil or an impervious surface to lessen the seepage of nutrients and salts into the ground. The soil surrounding the pile will provide moderate drainage and will not be compacted

from high traffic or pool up during wet weather. A slight slope of 2-4% is permitted to help drain water away from the compost area.”

SWS-4: “...compost sites will not be located near any natural drainage areas or ground water wells.”

SWF-2: “...lands where solid and semi-solid animal wastes are applied are managed to preclude runoff.”

10. Central Coast Water Board staff inspected the Discharger’s facilities twice during a storm event on April 3 and 4, 2006.
11. On **April 3, 2006**, Central Coast Water Board staff observed and photographed spray irrigation of **Dairy Unit** wastewater onto spray fields C-36-39. The spray fields were saturated due to rainfall. Wastewater was not completely absorbed by the soil, which caused wastewater, along with stormwater, to flow directly into Brizzolara Creek. Central Coast Water Board staff photographed this wastewater discharge into Brizzolara Creek. The Discharger thereby violated Prohibition No. 2, Discharge Specification No. 1, and several WQMP requirements. This unpermitted discharge of waste to surface waters is a violation of California Water Code Section 13383 and the federal Clean Water Act.
12. On **April 3, 2006**, Central Coast Water Board staff also observed spray irrigation of **Swine Unit** wastewater onto spray field C-16. The spray field was saturated due to rainfall. Wastewater was not completely absorbed by the soil, which caused wastewater, along with stormwater, to flow into an unnamed drainage leading into Brizzolara Creek. Central Coast Water Board staff also photographed this wastewater discharge. The Discharger thereby violated Prohibition No. 2, Discharge Specification No. 1, and several WQMP requirements. This unpermitted discharge of waste to surface waters is a violation of California Water Code Section 13383 and the federal Clean Water Act.
13. On **April 3, 2006**, Central Coast Water Board staff observed and photographed black leachate discharging from the **Composting Facility** into an unnamed natural drainage channel leading to Stenner Creek. The Discharger thereby violated Prohibition No. 2, Prohibition No. 4, Discharge Specification No. 1, and several WQMP requirements. This unpermitted discharge of waste to surface waters is a violation of California Water Code Section 13383 and the federal Clean Water Act.
14. On **April 4, 2006**, Central Coast Water Board staff again observed spray irrigation of **Dairy Unit** wastewater onto spray fields C-36-39. The spray fields were saturated due to rainfall. Wastewater was not completely absorbed by the soil, which caused wastewater, along with stormwater, to flow directly into Brizzolara Creek. Central Coast Water Board staff sampled the discharge from spray field C-38. The sample contained greater than 24,190 MPN/100 mL Total Coliform and greater than 24,190 MPN/100 mL *Escherichia Coli*. Another sample taken downstream of spray field C-

38 contained 24,190 MPN/100 mL *E. Coli*. The Discharger thereby violated Prohibition No. 2, Discharge Specification No. 1, and several WQMP requirements. This unpermitted discharge of waste to surface waters is a violation of California Water Code Section 13383 and the federal Clean Water Act.

15. On **April 4, 2006**, Central Coast Water Board staff again observed spray irrigation of **Swine Unit** wastewater onto spray field C-16. The spray field was saturated due to rainfall. Wastewater was not completely absorbed by the soil, which caused wastewater, along with stormwater, to flow into an unnamed drainage leading into Brizzolara Creek. Central Coast Water Board staff sampled the discharge from spray field C-16. The sample contained 11,200 MPN/100 mL Total Coliform and 3,650 MPN/100 mL *E. Coli*. The Discharger thereby violated Prohibition No. 2, Discharge Specification No. 1, and several WQMP requirements. This unpermitted discharge of waste to surface waters is a violation of California Water Code Section 13383 and the federal Clean Water Act.
16. On **April 4, 2006**, Central Coast Water Board staff again observed black leachate discharging from the **Composting Facility** into an unnamed natural drainage channel leading to Stenner Creek. Central Coast Water Board staff sampled this runoff in the natural drainage channel just below the compost area (field C-42). The sample contained greater than 24,190 MPN/100 mL Total Coliform and greater than 24,190 MPN/100 mL *E. Coli*. Samples taken further downstream from the Composting Facility, just above the confluence with Stenner Creek, contained greater than 24,190 MPN/100 mL Total Coliform and greater than 24,190 MPN/100 mL *E. Coli*. The Discharger thereby violated Prohibition No. 2, Prohibition No. 4, Discharge Specification No. 1, and several WQMP requirements. This unpermitted discharge of waste to surface waters is a violation of California Water Code Section 13383 and the federal Clean Water Act.

MAXIMUM CIVIL LIABILITY

Water Code Section 13385(c) authorizes the Central Coast Water Board to administratively impose civil liability in an amount not to exceed the sum of \$10,000 per day for each day a violation of California Water Code Section 13383 occurs and \$10 per gallon for each gallon in excess of 1,000 that is not susceptible to cleanup or is not cleaned up. In a letter dated July 6, 2006, the Discharger reported that it discharged an estimated total of 444,000 gallons from the Dairy Unit, and 378,000 gallons from the Swine Unit, on April 3-4, 2006. However, it is not possible to determine with certainty what portion of this volume ran off the spray fields and into surface waters, so the maximum penalty on a per-gallon basis is unknown. On the per-day basis only, the maximum civil liability that may be imposed by the Water Board for the above violations is **\$60,000** (3 violations per day X 2 days X \$10,000 per day). This is a conservative estimate of maximum liability because it does not include liability on a per-gallon basis. The Central Coast Water Board has discretion to increase this estimate of maximum liability by including liability on a per-gallon basis.

MINIMUM CIVIL LIABILITY

Water Code Section 13385(e) provides that, at a minimum, civil liability shall be assessed at a level that recovers the economic benefit or savings, if any, derived from the acts that constitute the violations. As discussed below, the Discharger likely realized at least \$52,540 economic benefit or savings from these violations.

FACTORS TO CONSIDER IN ASSESSMENT OF CIVIL LIABILITY

Pursuant to Water Code Section 13385(e), in determining the amount of liability, the Water Board shall:

...take into account the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

These factors are considered as follows:

a. The Nature, Circumstances, Extent, and Gravity of the Violations

The **Dairy Unit** generates wastewater by flushing out animal pens and other areas of the dairy. Recycled wastewater is usually used for flushing, but fresh water is used just prior to milking the cows, which adds water to the wastewater system. Wastewater flows into two primary treatment lagoons. Cal Poly faculty has been using one of the Dairy Unit's primary treatment lagoons for methane-generation research for several years. This has effectively reduced storage of the primary treatment lagoons by half. Consequently, Cal Poly is frequently reliant on its backup storage ponds. During inspections in both April 2005 and April 2006, staff found both backup storage ponds to be completely full. Use of one of the primary treatment lagoons for methane generation research is limiting storage capacity of the Dairy Unit wastewater ponds.

Wastewater is disposed from the Dairy Unit ponds by spray irrigation to one of several designated spray fields. Cal Poly staff noted that nitrate and total dissolved solids concentrations were increasing in groundwater downgradient of one of the more heavily used spray fields. Cal Poly decided to decrease wastewater loading to those fields and implement some management practices (plow to restore percolation and re-plant). Rather than rotating disposal to another field, Cal Poly did not discharge any wastewater from the Dairy Unit lagoons for all of January and February 2006. This, combined with the limited storage capacity of the ponds, caused water levels to rise in the ponds. When water levels threatened to breach the ponds, Cal Poly decided to

discharge to the spray fields, despite a forecasted storm event on April 3 and 4, 2006, and a planned visit by Central Coast Water Board staff. This was towards the end of the rainy season, when the spray field soils were likely to be saturated by rainfall. All these factors combined to cause the violation described in Allegation Nos. 11 and 14 above.

The sample of runoff from Dairy Unit spray field C-38 taken on April 4, 2006 contained greater than 24,190 MPN/100 mL Total Coliform and greater than 24,190 MPN/100 mL *Escherichia Coli*. Another sample taken downstream of spray field C-38 contained 24,190 MPN/100 mL *E. Coli*. These discharges exceed all applicable pathogen water quality standards and the pathogen TMDL for the San Luis Obispo Creek Watershed.

In a June 8, 2006 letter, a representative of Cal Poly Farm Operations wrote,

“Our urgent decision [to discharge to spray fields during a storm event] was based on the idea that we would rather spray into a grassed field and grassed waterway than allow any overflow from our lagoon to run directly into Stenner Creek. Regrettably, we did not have any good alternatives.”

Staff disagrees that Cal Poly did not have any good alternatives. These Dairy Unit violations probably would not have occurred had Cal Poly 1) not used one of the primary treatment lagoons for methane-generation research, 2) rotated disposal to another field in January and February 2006, 3) had additional storage capacity in the treatment lagoons, or 4) had additional spray field capacity.

Unlike the Dairy Unit, the **Swine Unit** does not recycle wastewater to flush out its pens. Wastewater generation depends directly on how much fresh water is used. According to Cal Poly's Water Quality Management Specialist, there has been a recent increase in wastewater generation rates at the Swine Unit, possibly due to a change in management personnel. Apparently, these personnel generated wastewater faster than it could be disposed from the ponds during winter 2005/2006, which caused water levels to rise and threaten to breach the ponds. Discharge to the spray field during the storm event on April 3 and 4, 2006, was reportedly necessary to prevent breaching of the pond. This discharge led to the violations described in Allegation Nos. 12 and 15.

The sample of runoff from Swine Unit spray field C-16 taken on April 4, 2006, contained 11,200 MPN/100 mL Total Coliform and 3,650 MPN/100 mL *E. Coli*. These discharges exceed all applicable pathogen water quality standards and the pathogen TMDL for the San Luis Obispo Creek Watershed.

These violations probably would not have occurred had Cal Poly 1) properly controlled water use at the Swine Unit, 2) had additional storage capacity in the Swine Unit treatment ponds, or 3) had additional spray field capacity.

Cal Poly may suggest that a prolonged wet weather season prevented them from discharging from the ponds and led to these violations. However, if pond storage capacity had been greater, or if existing pond storage capacity were properly managed (e.g. the ponds drawn down prior to winter), then significant wastewater disposal during winter would not have been necessary. Also, if Cal Poly had greater spray field capacity, or faster transport of wastewater to its existing spray fields, then it would be able to quickly draw down the ponds during breaks in wet weather and reserve capacity for further storm events.

The **Composting Facility** is located in two large open fields, with an unnamed drainage tributary to Stenner Creek flowing between the fields. There are little or no controls in place to prevent stormwater runoff through active composting areas or from the fields into the drainage. Staff observed and photographed some compost piles located very close to the drainage, and discolored runoff from those piles flowing unabated into the drainage. Central Coast Water Board staff sampled this runoff in the drainage channel just below the Composting Facility (field C42). The sample contained greater than 24,190 MPN/100 mL Total Coliform and greater than 24,190 MPN/100 mL *E. Coli*. Samples taken further downstream from the Composting Facility, just above the confluence with Stenner Creek, contained greater than 24,190 MPN/100 mL Total Coliform and greater than 24,190 MPN/100 mL *E. Coli*. These values exceed all applicable pathogen water quality standards and the pathogen TMDL for the San Luis Obispo Creek Watershed.

Consideration of these factors supports assessment of the maximum liability.

b. Degree of Culpability

Upon first appearance, Cal Poly's degree of culpability for the violations at the spray fields may seem low, because its wastewater disposal method is inherently affected by weather. However, Cal Poly is capable of controlling the amount of wastewater it produces and the capacity of its wastewater ponds and spray fields. Cal Poly is capable of predicting wet weather and managing its wastewater accordingly. Correspondence with Cal Poly suggests it was well aware that discharge to the spray fields during a storm event is a violation of its Waste Discharge Requirements. Cal Poly's degree of culpability for violations at the spray fields is high.

Cal Poly degree of culpability for the violations at the Composting Facility is moderate to high. Cal Poly could have had controls in place to prevent runoff through the active composting areas and to contain facility runoff within the facility. Cal Poly's June 1, 2006 letter includes several planned improvements to the Composting Facility, including installation of berms around the fields and a detention basin at the lowest portion of each field. These improvements could have easily been made prior to these violations.

Consideration of this factor supports assessment of the maximum liability.

c. Voluntary Cleanup Efforts Undertaken by the Violator

There were no voluntary cleanup efforts undertaken by Cal Poly that would justify assessment of liability less than the maximum.

d. Susceptibility to Cleanup or Abatement

The described discharges were not susceptible to cleanup or abatement. The discharges occurred during wet weather and were washed downstream by heavy stormwater runoff. Consideration of this factor justifies no change in the assessment.

e. Degree of Toxicity of the Discharge

The subject discharges were essentially animal waste, which is high in pathogens and nutrients, but which is not typically considered toxic (relative to petroleum-based and synthetic compounds). The discharges were significantly diluted by heavy stormwater flows. Staff did not observe or receive any reports of fish kills or other signs of toxicity downstream of the discharges. Although the discharges certainly contributed to impairment of water quality and beneficial uses, the discharges were relatively non-toxic. Consideration of this factor supports assessment of liability that is less than of the maximum.

f. Prior History of Violations

Cal Poly has a considerable prior history of violations. During a storm event on November 4, 2004, staff observed significant flow from a small watershed that drains through Cal Poly's Bull Test Unit into Brizzolara Creek. The water carried animal waste from the Bull Test Unit via a concrete apron and other routes directly to Brizzolara Creek. The discharge from the concrete apron was sampled and found to contain greater than 240,000 MPN/100 mL E. Coli. This is similar to the quality of raw sewage. Staff issued a Notice of Violation on November 23, 2004. Cal Poly has since relocated the Bull Test Unit away from any water bodies, but the primary reason for moving the unit was to make way for a new student housing complex.

Cal Poly's semiannual groundwater monitoring has revealed violations of Order No. 03-035. Groundwater monitoring wells downgradient of spray fields C-36-39 and C-42-50 show significant increases in some pollutants as compared to upgradient wells. Nitrate concentrations consistently exceed the drinking water standard of 10 mg/L (as N) in some downgradient groundwater monitoring wells. These violations indicate inadequate spray field capacity or improper spray field management.

Cal Poly is responsible for operating and maintaining a sewer system that is tributary to the City of San Luis Obispo wastewater treatment plant. Cal Poly has had several sewage spills in recent years, including a 1,000 gallon spill on September 13, 2004, 200 gallons on July 27, 2004, less than 150 gallons on October 4, 2004, 50 gallons on July 15, 2005, and 350 gallons on September 15, 2005.

Cal Poly's prior history of violations supports assessment of the maximum liability.

g. Economic Benefit or Savings Resulting from the Violations

Cal Poly submitted a letter dated July 6, 2006, detailing the cost of its proposed remedies to prevent violations at the Dairy Unit, Swine Unit, and Composting Facility. The cost of these remedies is essentially the economic benefit or savings that Cal Poly has realized by not proactively preventing the subject violations.

In order to prevent violations at the Dairy Unit and Swine Unit, Cal Poly's short-term solution is to expand its spray field disposal area by 7 acres (onto fields C-55 and C-56A). This involves establishing infrastructure (pipe and easement), and three monitoring wells, at an estimated cost of \$25,660. Cal Poly is also working with the Natural Resource Conservation Service on a long-term plan to develop an alternate sprayfield area and additional treatment processes. The cost of these long-term improvements is not known at this time.

In order to prevent violations at the Compost Facility, Cal Poly must construct berms and a stormwater detention basin to control stormwater runoff to and from the facility. Cal Poly estimates its cost to make these improvements at \$26,880. In total, the economic benefit or savings that Cal Poly realized by not preventing the violations described above is at least \$52,540.

h. Discharger's Ability to Pay Civil Liability and Ability to Stay in Business

The Discharger has not provided any information that would indicate an inability to pay the proposed civil liability.

i. Other Matters that Justice May Require

Cal Poly is responsible for teaching future agriculturalists proper waste management. Cal Poly's management of Dairy Unit waste, Swine Unit waste, and the Composting Facility has set a poor example for future agriculturalists, that could eventually have wide-reaching impacts on water quality. Consideration of this factor supports assessment of the maximum liability.

Responding to these violations and preparing this Administrative Civil Liability Complaint required approximately 60 hours of staff time. Estimated staff costs are \$4,500 (60 hours staff time x \$75/hour).

CALIFORNIA POLYTECHNIC STATE UNIVERSITY, SAN LUIS OBISPO IS HEREBY GIVEN NOTICE THAT:

1. Upon consideration of factors as required by California Water Code Section 13385, the Executive Officer recommends civil liability in the amount of **sixty thousand dollars (\$60,000)**.
2. The Water Board will hold a public hearing on this matter on October 20, 2006, unless the Discharger agrees to waive its right to a public hearing by filling out, signing, and submitting the enclosed "Waiver of Hearing." If the Discharger chooses not to waive its right to a public hearing, the Water Board will proceed with the scheduled hearing, consider testimony received from interested persons during the hearing, and decide whether to accept the penalty amount proposed by the Executive Officer or to increase the liability. The Water Board may also decide to continue the matter to a future hearing, direct the Executive Officer to reissue the Complaint to propose additional penalties, or refer the matter to the State Attorney General. The public hearing is scheduled at the regularly scheduled Water Board meeting on October 20, 2006, at the Santa Barbara County Board of Supervisors Hearing Room, 105 East Anapamu Street, Fourth Floor, Santa Barbara, California. The meeting is scheduled to begin at 8:30 a.m.; however, no specific time has been set for consideration of this item.

If you have questions regarding this matter, please direct them to Water Board staff, **Matt Thompson, at (805) 549-3159**, or Harvey Packard at (805) 542-4639.

Michael Thomas
Assistant Executive Officer

Date

**PROCEDURAL INFORMATION
FOR
MANDATORY PENALTY COMPLAINT
HEARING AND PAYMENT**

WAIVER OF RIGHT TO A PUBLIC HEARING

You may waive your right to a public hearing. If you wish to waive your right to a public hearing, a duly authorized person² must check, sign, and submit the following ***Waiver of the Right to a Public Hearing*** form and pay the penalty amount specified in the Complaint **no later than September 1, 2006 at 5:00 P.M.** Please follow the payment instructions below.

If you choose to waive your right to a public hearing, and if full payment and a signed Waiver of the Right to a Public Hearing form are received before the hearing, the hearing will not be held, and the violation will be settled. If full payment and a signed Waiver of the Right to a Public Hearing form are not received, the matter will be placed on the Water Board's agenda for a hearing as stated below.

If you do not waive your right to a public hearing, the Executive Officer will present an order to the Water Board for the amount proposed in this Complaint at its meeting on October 20, 2006, at the Santa Barbara County Board of Supervisors Hearing Room, 105 East Anapamu Street, Fourth Floor, Santa Barbara, California. The Water Board will proceed with the scheduled hearing, consider testimony received from interested persons during the hearing, and decide whether to accept the penalty amount proposed by the Executive Officer or to increase the liability. If the proposed Order is adopted, payment of the penalty to the State Water Resources Control Board will be due and payable no later than November 19, 2006, in accordance with the Order. If the proposed Order is rejected, the Water Board may direct the Executive Officer to issue a new complaint and schedule another public hearing. The Water Board may also decide to continue the matter to a future hearing or refer it to the State Attorney General.

PAYMENT OF PENALTY

No later than September 1, 2006, please make your check payable to *State Water Resources Control Board*, and note "ACL Complaint No. R3-2006-0061" on the check. Please mail the check and signed waiver form to: **SWRCB ACCOUNTING, ATTN: ENFORCEMENT, P.O. BOX 100, SACRAMENTO, CA 95812-0100.**

At the same time, please also mail copies of the check and signed waiver form to: Regional Water Quality Control Board, **Attn: Matt Thompson, 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401.**

² A duly authorized person is defined as a principal executive officer of at least the level of vice president in a corporation, a general partner or the proprietor in a partnership or sole proprietorship, a principal executive officer or ranking elected official in a public agency, or a duly authorized representative.

WAIVER OF THE RIGHT TO A PUBLIC HEARING

- [] By checking this box, I agree to waive Cal Poly's right to a public hearing before the Central Coast Water Board with regard to the violations alleged in Complaint No. R3-2006-0061. I agree to provide payment of the penalty for the amount proposed in Complaint No. R3-2006-0061. I understand that I am giving up Cal Poly's right to be heard and its right to argue against the allegations made by the Executive Officer in Complaint No. R3-2006-0061, and against the imposition of, and the amount of, the mandatory minimum penalty proposed.

Signature

Printed Name

Title/Position

Date